

SEAL

UNITED STATES DISTRICT COURT

for the
Western District of Virginia

JUL 26 2018

JULIA G. DUDLEY, CLERK
BY *[Signature]*
DEPUTY CLERKIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)TWITTER USERNAME @RiseAboveMvmt AT
https://twitter.com/RiseAboveMvmt THAT IS STORED
AT PREMISES CONTROLLED BY TWITTER, Inc.

Case No. 3:18mj 00019

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A (incorporated herein by reference)

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B (incorporated herein by reference)

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

18 USC 249

18 USC 2101

18 USC 844(h)

Offense Description

Hate Crime Acts

Riots

Use of Fire or Explosive Materials

The application is based on these facts:

Please see attached Affidavit.

- ☒ Continued on the attached sheet.
- ☒ Delayed notice of 180 days (give exact ending date if more than 30 days: 01/22/2019) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

[Signature]
Applicant's signature

FBI Special Agent Dino Cappuzzo

Printed name and title

Sworn to before me and signed in my presence.

Date: 07/26/2018

City and state: Charlottesville, Virginia

[Signature]
Judge's signature

The Honorable Joel C. Hoppe, U.S. Magistrate Judge

Printed name and title

SEALED

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED

JUL 26 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JULIA C. DUDLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
TWITTER PROFILE WITH USERNAME
@RiseAboveMvmt AT
<https://twitter.com/RiseAboveMvmt> THAT
IS STORED AT PREMISES CONTROLLED
BY TWITTER, INC.

Case No. 3:18mj00019

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Dino P. Cappuzzo, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Twitter account that is stored at premises owned, maintained, controlled, or operated by Twitter, a social-networking company headquartered in San Francisco, CA. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A) to require Twitter to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the Twitter account.

2. I am a Task Force Officer of the United States Department of Justice, Federal Bureau of Investigation ("FBI") and have been so employed since September 2016. I am assigned to the Richmond Field Office, Charlottesville Resident Agency, located in Charlottesville, Virginia. My principal duties include the investigation of, among other matters, domestic and international terrorism and threats to the National Security of the United States.

3. I am a sworn law enforcement officer with the Virginia Department of State Police, Bureau of Criminal Investigation, and have been so employed for 22 years. Additionally, I am a Task Force Officer, deputized as a Deputy United States Marshal as a member of the Federal Bureau of Investigation's Joint Terrorism Task Force in Charlottesville, Va. I am charged with the duty of investigating violations of the Laws of the United States as stated in Title 28, Federal Code of Regulations, and to seek and execute arrest and search warrants supporting a Federal Task Force under Title 18 Authority.

4. I make this affidavit in support of an application by the United States of America for a warrant to search and seize evidence associated with Twitter account profile username **@RiseAboveMvmt**, located at the URL **<https://twitter.com/RiseAboveMvmt>**, as further described in Attachment A.

5. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

6. Based on the information below, I submit there is probable cause to believe the aforementioned Twitter account will contain evidence, as more fully identified in Attachment B, of violations of federal law, including, but not limited to, Title 18, United States Code, Section 249 (Hate Crime Acts), and Title 18, United States Code, Section 2101, (Riots.)

7. Through training and experience, the Affiant has knowledge that domestic terrorists and persons affiliated with violent white-supremacist groups utilize cell phones, and other electronic devices, electronic mail ("E-mail"), and social media to conduct illegal activities, including the planning and execution of coordinated acts of violence motivated by racial, ethnic, and/or political animus, and other unlawful activities.

8. The Affiant bases this affidavit upon personal knowledge and observations made during the course of this investigation, information conveyed to me by other law enforcement officers assigned to this investigation, and upon my personal review of records, documents, and items lawfully obtained by third parties. This affidavit is not intended to include each and every fact known to me or the other investigating agencies, nor does it reflect all the evidence developed during the course of the investigation. Instead, the Affiant has set forth sufficient information to establish probable cause for the issuance of the requested search warrant. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part.

RELEVANT STATUTES

9. Title 18, United States Code, Section 249, provides that “Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person” shall be guilty of a federal offense. Title 18, United States Code, Section 2101, provides that “Whoever travels in interstate or foreign commerce or uses any facility of interstate or foreign commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, with intent 1) to incite a riot; or 2) to organize, promote, encourage, participate in, or carry on a riot; or 3) to commit any act of violence in furtherance of a riot; or 4) to aid or abet any person in inciting or participating in or carrying on a riot or committing any act of violence in furtherance of a riot” shall be guilty of a federal offense.

JURISDICTION

10. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

BACKGROUND

11. On August 12, 2017, a “Unite the Right” rally (UTR) was held at Emancipation Park in Charlottesville, Virginia. The proclaimed purpose of the rally was to protest the removal of the Robert E. Lee and Thomas “Stonewall” Jackson statues in Charlottesville. Several groups espousing right-wing nationalist and/or white supremacist views attended the rally in support.

12. In addition, numerous counter-protestors attended the rally to oppose the rally and its supporters. Throughout the day, numerous violent encounters occurred between white supremacists and counter-protestors.

13. Upon information and belief, among the most violent individuals present in Charlottesville on August 12 were at least five members and associates of the "Rise Above Movement," or "RAM," a militant white-supremacist organization based in Southern California. RAM and its members openly identify themselves on various social media platforms as "alt-right" and "nationalist" and frequently posts videos and photographs of its adherents engaged in vigorous physical training and mixed martial arts (MMA) street-fighting techniques in order to prepare to engage in fighting and violence at political rallies.

PROBABLE CAUSE

14. Through open source research by the FBI, it was learned that RAM maintains a publicly viewable Twitter page. RAM purports itself to be a positive influence on those who

15. join their ranks, as evidenced in the following statement posted to their publicly viewable Twitter page:



RISE ABOVE MOVEMENT



- Who we are -

R.A.M is a new organization dedicated to the promotion of an active lifestyle and common values among young people for our future. This is achieved through training, creative thinking, and activism. Today, under the pressure of consumer propaganda and values we have lost our pioneering spirit, the spirit of a fighter, our warrior spirit! The main task of Rise Above Movement is to revive this spirit. Modern society fosters weak men, addicts, and apathy. We want to rise above all of today's destructive culture and see the rebirth of our people, strong in mental and physical capacities as our forefathers were. In a time when you can be harmed for your political beliefs or shamed for your heritage, we are here to defend our identity and shared goals.

16. Through Twitter and other social-media platforms, RAM promotes “clean living,” physical fitness and mixed martial arts (MMA) street fighting techniques. According to an article published to www.nocara.blacklogs.org on 7/06/2017, entitled “DIY Division: The Violent neo-Nazi Group Central to the California Alt-Right and Alt-Light Protest Movements,” DIY, which later re-branded itself as RAM, subscribes to “equal parts Identity Evropa’s flaccid identitarian discourse...and the fetishization of masculinity, physical fitness, and violence mixed with the shallow anti-corporate and anti-consumerist themes of the film *Fight Club*. Propaganda by the group...contains...fascistic themes of emasculated young white men needing to reclaim their identities through learning to fight and engaging in purifying violence.” Accordingly, the group regularly meets in public parks in the southern California area and trains in physical fitness, boxing and other fighting techniques. The following photographs were obtained from RAM’s public Twitter page:



R.A.M. @RiseAboveMvmt · Jan 24

Some debate about the future, others work to build it. #altright #nationalist
#riseabove





17. Benjamin Drake Daley (DALEY,) a resident of Redondo Beach, California, figures prominently in the organization, and regularly appears in photographs posted to their publicly viewable Twitter page. DALEY is seen in the photo above, sitting on the ground third from the left. RAM also regularly posts photos of themselves posing shirtless and wearing skull half masks, with the group's name overlaying the photo, as seen below:



R.A.M. @RiseAboveMvmt · Mar 8
#nationalist #ultraright



Again, DALEY is seen kneeling on the far left of the first row in the photo. DALEY, along with fellow members of RAM Michael Paul Miselis (MISELIS) and Robert Rundo (RUNDO), and other RAM associates, traveled to Charlottesville on or about August 11, 2017, and participated in multiple protests and violent encounters in and around Charlottesville in connection with the UTR rally. In addition, these RAM members have engaged in acts of violence at political rallies in Huntington Beach, Ca. (3/25/2017), Berkeley, Ca. (4/15/2017), San Bernardino, Ca. (6/10/2017). In the screen shot below from a video posted to YouTube,

RUNDO and other RAM members are seen promoting the organization while at a rally in California.



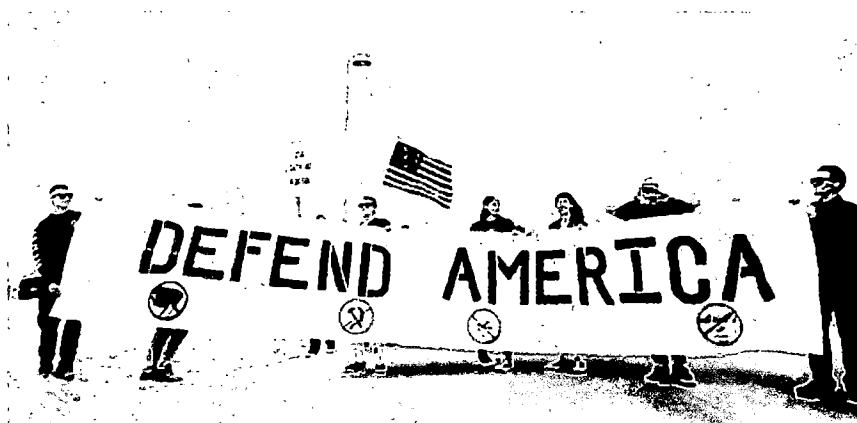
18. RAM, in contrast to their purpose referenced previously, openly espouses animosity, anti-Semitism, and violence towards those who hold opposite ideologies to their own, as evidenced by posts to their Twitter page:



R.A.M. @RiseAboveMvmt · Mar 20
#nationalist #optics



R.A.M. @RiseAboveMvmt · Feb 15
Shortly after this pic antifa was btfo in Huntington Beach #defened #America
#nationalist #altright



1

20





R.A.M. @RiseAboveMvmt · Feb 5

When the squads not out smashing commies #nationalist #lifestyle





R.A.M. @RiseAboveMvmt · Feb 14

First time it left the meme world into the real world.

#riseabovemovement #nationalist #altright



The FBI is conducting an investigation into possible violations of federal criminal law committed by individuals allegedly associated with RAM. The investigation was initiated following receipt of information that DALEY, RUNDO, and MISELIS along with other members of RAM, attended the August 12, 2017 "Unite the Right" Rally in Charlottesville, Va. and committed multiple acts of violence against counter protestors, which in some cases resulted in serious injuries. The aforementioned information was corroborated by a video uploaded to Youtube on December 17, 2017 entitled "Proof Antifa started the Violence in Charlottesville. Read the Description!" DALEY, along with other members of RAM, are seen in the video

committing acts of violence, assaulting counter-protestors by punching, kicking and head butting. DALEY, a white male with short-cropped reddish blonde hair wearing a white long sleeved shirt and sun glasses and with his fists taped, is seen in the following screen shot from the aforementioned Youtube video punching a counter protestor:



MISELIS, in the following screen shot used by Propublica.org in an article about MISELIS' alleged membership in RAM, appears to be shoving an African American to the ground. MISELIS, like DALEY, has his fists taped in the manner of boxers and MMA fighters:



Another screen shot from the same video shows DALEY attacking a man allegedly without provocation:



And later in the same video, MISELIS is seen allegedly kicking the same man after he has fallen to the ground:



In the following screen shot, DALEY can be seen in the process of body slamming a female counter protester to the ground. MISELIS is standing to DALEY'S left in the screen shot:



The following screen shot shows one of the female counter-protestors who was allegedly assaulted by DALEY, and other RAM members including MISELIS, who has suffered a significant head injury being escorted away by law enforcement:



A photograph taken from an article published by Propublica.org on July 5, 2018 shows MISELIS allegedly winding up to throw an object at counter protestors:



A second photograph taken from the same article shows MISELIS with his arms raised in a defiant pose:



The following photograph, taken by the Affiant on August 12, 2017 in Emancipation Park (Market Street Park,) shows many of the aforementioned individuals posing behind a banner representing RAM:



More recent posts to RAM's Twitter page show their solidarity with MISELIS, who was recently the subject of a story published by www.ProPublica.org, exposing his membership in RAM and his apparent violent activity in Charlottesville. According to published accounts, this ProPublica story resulted in MISELIS losing his job with a national defense contractor.



R.A.M. @RiseAboveMvmt · Jul 11

PROOF that Mike Miselis was protecting Andrew Dodson at Charlottesville.

FAKE NEWS EXPOSED!

RT



2



14



32



19. Twitter owns and operates a free-access social-networking website of the same name that can be accessed at <http://www.twitter.com>. Twitter allows its users to create their own profile pages, which can include a short biography, a photo of themselves, and location information. Twitter also permits users create and read 140-character messages called “Tweets,” and to restrict their “Tweets” to individuals whom they approve. These features are described in more detail below.

20. Upon creating a Twitter account, a Twitter user must create a unique Twitter username and an account password, and the user may also select a different name of 20 characters or fewer to identify his or her Twitter account. The Twitter user may also change this username, password, and name without having to open a new Twitter account.

21. Twitter asks users to provide basic identity and contact information, either during the registration process or thereafter. This information may include the user's full name, e-mail addresses, physical address (including city, state, and zip code), date of birth, gender, hometown, occupation, and other personal identifiers. For each user, Twitter may retain information about the date and time at which the user's profile was created, the date and time at which the account was created, and the Internet Protocol ("IP") address at the time of sign-up. Because every device that connects to the Internet must use an IP address, IP address information can help to identify which computers or other devices were used to access a given Twitter account.

22. A Twitter user can post a personal photograph or image (also known as an "avatar") to his or her profile, and can also change the profile background or theme for his or her account page. In addition, Twitter users can post "bios" of 160 characters or fewer to their profile pages.

23. Twitter also keeps IP logs for each user. These logs contain information about the user's logins to Twitter including, for each access, the IP address assigned to the user and the date stamp at the time the user accessed his or her profile.

24. As discussed above, Twitter users can use their Twitter accounts to post "Tweets" of 140 characters or fewer. Each Tweet includes a timestamp that displays when the Tweet was posted to Twitter. Twitter users can also "favorite," "retweet," or reply to the Tweets of other users. In addition, when a Tweet includes a Twitter username, often preceded by the @ sign,

Twitter designates that Tweet a “mention” of the identified user. In the “Connect” tab for each account, Twitter provides the user with a list of other users who have “favorited” or “retweeted” the user’s own Tweets, as well as a list of all Tweets that include the user’s username (*i.e.*, a list of all “mentions” and “replies” for that username).

25. Twitter users can include photographs or images in their Tweets. Each Twitter account also is provided a user gallery that includes images that the user has shared on Twitter, including images uploaded by other services.

26. Twitter users can also opt to include location data in their Tweets, which will reveal the users’ locations at the time they post each Tweet. This “Tweet With Location” function is off by default, so Twitter users must opt in to the service. In addition, Twitter users may delete their past location data.

27. When Twitter users want to post a Tweet that includes a link to a website, they can use Twitter’s link service, which converts the longer website link into a shortened link that begins with <http://t.co>. This link service measures how many times a link has been clicked.

28. A Twitter user can “follow” other Twitter users, which means subscribing to those users’ Tweets and site updates. Each user profile page includes a list of the people who are following that user (*i.e.*, the user’s “followers” list) and a list of people whom that user follows (*i.e.*, the user’s “following” list). Twitter users can “unfollow” users whom they previously followed, and they can also adjust the privacy settings for their profile so that their Tweets are visible only to the people whom they approve, rather than to the public (which is the default setting). A Twitter user can also group other Twitter users into “lists” that display on the right side of the user’s home page on Twitter. Twitter also provides users with a list of “Who to Follow,” which includes a few recommendations of Twitter accounts that the user may find

interesting, based on the types of accounts that the user is already following and who those people follow.

29. In addition to posting Tweets, a Twitter user can also send Direct Messages (DMs) to one of his or her followers. These messages are typically visible only to the sender and the recipient, and both the sender and the recipient have the power to delete the message from the inboxes of both users. As of January 2012, Twitter displayed only the last 100 DMs for a particular user, but older DMs are stored on Twitter's database.

30. Twitter users can configure the settings for their Twitter accounts in numerous ways. For example, a Twitter user can configure his or her Twitter account to send updates to the user's mobile phone, and the user can also set up a "sleep time" during which Twitter updates will not be sent to the user's phone.

31. Twitter includes a search function that enables its users to search all public Tweets for keywords, usernames, or subject, among other things. A Twitter user may save up to 25 past searches.

32. Twitter users can connect their Twitter accounts to third-party websites and applications, which may grant these websites and applications access to the users' public Twitter profiles.

33. If a Twitter user does not want to interact with another user on Twitter, the first user can "block" the second user from following his or her account.

34. In some cases, Twitter users may communicate directly with Twitter about issues relating to their account, such as technical problems or complaints. Social-networking providers like Twitter typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by

the provider or user as a result of the communications. Twitter may also suspend a particular user for breaching Twitter's terms of service, during which time the Twitter user will be prevented from using Twitter's services.

35. As explained herein, information stored in connection with a Twitter account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Twitter user's account information, IP log, stored electronic communications, and other data retained by Twitter, can indicate who has used or controlled the Twitter account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, communications, "tweets" (status updates) and "tweeted" photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Twitter account at a relevant time. Further, Twitter account activity can show how and when the account was accessed or used. For example, as described herein, Twitter logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Twitter access, use, and events relating to the crime under investigation. Additionally, Twitter builds geo-location into some of its services. If enabled by the user, physical location is automatically added to "tweeted" communications. This geographic and timeline information may tend to either inculcate or exculpate the Twitter account owner. Last, Twitter account

activity may provide relevant insight into the Twitter account owner's state of mind as it relates to the offense under investigation. For example, information on the Twitter account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a criminal plan) or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

36. Based on the information detailed above, including, but not limited to, evidence of RAM's involvement in organized violent activity in Charlottesville and elsewhere in the spring and summer of 2017 and RAM's promotion of these unlawful acts on various social-media outlets, including Twitter, there is probable cause to believe that computers of Twitter are likely to contain evidence of violent criminal activities by RAM and its members, including potential violations of Title 18, United States Code, 249 (Hate Crimes), and Title 18, United States Code, Section 2101 (Riots).

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

37. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Twitter to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

38. Based on the forgoing, I request that the Court issue the proposed search warrant.

39. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) &


(c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

40. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.


REQUEST FOR SEALING

41. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Respectfully submitted,


Dino P. Cappuzzo
Special Agent/Task Force Officer
FBI

Subscribed and sworn to before me on July 26, 2018


UNITED STATES MAGISTRATE JUDGE